

TITLE: The Use of Rules in Determining Public Housing Eligibility

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ABSTRACT:

While federal programs are designed through administrative regulations, such regulations are used by workers as a reflexive resource rather than a guide. Wittgenstein and Garfinkel theorize such behavior as endemic to rule use, yet policy analysts preoccupied with limiting or enhancing worker “discretion” tend to overlook such theories. This study seeks to bring ethnomethodological insights to studies of poverty housing allocation, by examining how Section 8 housing eligibility officers reflexively use rules for determining “desperate need,” computing an applicants’ annual income, and judging applicants based on racial/ethnic typifications. Such an exploration will suggest that worker discretion will always be available for policy analysis, as workers use rules as resources to meet the daily challenges of a street level bureaucracy.

“You have to have been working already before training makes any sense. You can’t tell what they’re even talking about if you haven’t already done it. You might understand because you’ve watched a lot, but not like a novice worker would.”

The manager of a U.S. federal housing office, in response to my request to attend a training session.

H.L.A. Hart (1961:1) states, “few questions concerning human society have been asked with such persistence and answered by serious thinkers in so many diverse, strange, and even paradoxical ways as the question, ‘What is law?’” Part of this difficulty may arise from the problematic conceptualization of the law as an entity unto itself, determinative of action. This analysis, instead, examines the workings of the law *in situ*, to find what more there might be to everyday behavior which the law does not provide.

In policy studies, rules are often conceived in a platonic, idealized sense, as determinative of actions. Whenever such researchers look to the practical implementation of rules, they are bound to find exceptions, contradictions, and outright defiance. The enduring analytic questions of such studies concern how rules are broken, and how such rule-breaking might be remedied. As Handler (1979:7) states, “understanding and controlling official discretion is the key legal issue in social services.” Typically, such analyses “conceptualize discretion as decisions made relatively unfettered by rules, and advocate ‘confining, structuring, and checking’ decision-making as an antidote to the resulting ‘problems and abuses’” (Emerson, 1992:231). For instance, Doris Graber (2003) analyzes communication difficulties between citizens and government officials in terms of “encounter types,” and provides a list of reasons for governmental unresponsiveness, and guidelines to create greater responsiveness. Yet nowhere are the actual interactional details of client encounters addressed, leaving these recommendations somewhat hallow.¹

An alternative way of conceptualizing rules recognizes “the *insufficiency* of rules as either

¹ Earlier classic examples include Handler’s (1979:8-25) stipulation of the conditions which give rise to discretion, towards showing how discretion may be curtailed (*ibid.*:117-147). Pynoos (1986:67), in his study of the failure of a Boston Housing Authority plan to desegregate public housing, constructs five bureaucratic “types” of employees from interview data “in order to predict how various staff members are likely to use discretion.” Reich (1963) discusses the “midnight searches” of welfare recipients’ homes to check recipients’ eligibility for assistance as examples of blatant violations of applicants’ constitutional rights.

explanations of, or directives to, human action” (Heritage, 1984:121). In *Philosophical Investigations*, Wittgenstein (1951, para. 201) elucidates the doctrine of finitism, pointing to the necessarily finite quality of rules, yet the potentially infinite circumstances of their invocation. Hence, “No course of action could be determined by a rule, because every course of action can be made to accord with a rule” (also see Das, 1998:175ff).²

Kripke (1962) speaks of this as the “skeptical paradox,” resolved by an appeal to community. Similarly, Bloor (1992:274) finds that ‘collective support’ determines which actions will be seen as following a rule. Such a turn to “external actors” such as socialization and culture as determinants of human conduct is rejected by numerous ethnomethodologists. Instead, scholars such as Heritage (1984), Lynch (1992), Sharrock and Button (1999), and Sidnell (2003) read Wittgenstein as justifying a focus on how rules are used as constituent features of a setting, to make sense of action. The former position is commonly referred to as skepticist, while the later is referred to as anti-skepticist.

Harold Garfinkel’s (1984) work is vital to operationalizing Wittgenstein’s insights for the study of rule use in situ. Two primary elements may be drawn from Garfinkel’s analysis of rules and actions. First, “there always remains an open set of unstated conditions of a rule’s application” (Heritage, 1984:126), or, as Hart (1961:123) states, “no rule can step forward to claim its own instances.” Similarly, no rule can “exhaustively define the character or ‘legally possible’ range of conduct of an activity” (*ibid.*:124). For instance, when Garfinkel switched the positions of his pieces while playing chess, his opponent was “disconcerted,” but could not “say to *their* satisfaction what was wrong” (Garfinkel, 1963:199, emphasis his). Secondly, “the operation of the rule can

² Wittgenstein (1951, para. 185) demonstrates such a position by showing how a student comes to follow, or fails to follow a mathematical formula, $n+2$ to generate a series of cardinal numbers of less than 1,000.

Now we get the pupil to continue a series (say $+2$) beyond 1000, and he writes 1000, 1004, 1008, 1012.

We say to him: ‘Look what you’ve done! – He doesn’t understand. We say: ‘You were meant to add two: look how you began the series!’ – He answers: ‘Yes, isn’t it right? I thought that was how I was meant to do it.’ – Or suppose he pointed to the series and said: ‘But I went on in the same way.’

See Sidnell (2003) for a provocative discussion and cogent ethnographic examples from his fieldwork among Indo-Guanese villagers.

itself become implicated in the reflexive reformulation of ‘the circumstances’” (Heritage, 1984:126). In other words, not only does a rule not apply itself, but the way in which a rule is invoked reflexively affects the ongoing context of a situation, and serves as a members’ resource for accounting for a setting’s features.

These insights proved to be powerful tools for both exploring features of everyday life and critiquing other research models. Bittner (1965) provided one of the first classic ethnomethodological critiques of standard studies of the relationship of rules to action, pointing out that sociologists often invoke, “some programmatic constructions” that define actions prospectively, and thereby find themselves in a position, “of having borrowed a concept from those he seeks to study in order to describe what he observes about them” (*ibid.*:240). Thus, terms such as “employee” and “efficiency” (See Gerth and Mills, 1946:214-216) are invoked under the presupposition of, “a whole realm of background information” (*ibid.*:245), which is both a “refinement and purification” of actor’s theorizing, as well as a “corrupt and incomplete version of it” (*ibid.*:246).³ Instead of relying on such presuppositions to do the work of theorizing, Bittner proposes,

“That the meaning of the concept, and of all the terms and determinations that are subsumed under it, must be discovered by studying their use in real scenes of action by persons whose competence to use them is socially sanctioned” (p. 249, also in Zimmerman, 1966:11).

This study aims to operationalize Bittner’s prescriptions in respect to the Section 8 Program,⁴ the largest housing program in the United States. Subsidizing approximately 5% of the rental units in most metropolitan areas, or over 2.5 million units nationwide, the annual cost of this housing program was over \$10.5 billion, at the time of the fieldwork (U.S. Department of Commerce, 1993).⁵ This study was conducted in Uptown City, a well-established Coastal Community of about

³ Graber’s (2003) work serves as an apt contemporary example this tradition.

⁴ This description applies to the Section 8 Program at the time of the fieldwork; the program has undergone substantial legislative changes since this time.

⁵ When Nixon claimed that the Section 235 Home Ownership program and the Section 236 rental program, which provided interest subsidies on loans, were, “inequitable, wasteful, and ineffective,” in their service to the poor (Lazin and Aroni, 1983:2), the Section 8 Program was pioneered. Providing direct subsidies to landlords who rent to Section 8

50,000, adjacent to a large metropolitan area. The city is ethnically and racially diverse, with both a substantial affluent population and a large number of homeless. The office manages approximately 900 tenants on the program, providing each of three caseworkers with a load of about 300 cases to review over the course of a year.⁶

In order to qualify for Section 8, a person must first be a resident in the municipality to which they are applying, meaning they either live there, work there full time (35 or more hours a week), or are homeless. Second, they must fall within the limits of the annual income criteria.⁷ Third, they must be either a family,⁸ elderly (over 62), or disabled (as defined by Social Security). These are the standard criteria for eligibility, but due to the high demand for the program, an additional condition has been established called “federal preferences,” or, more colloquially by Section 8 workers, “desperate need.” In order to qualify for a federal preference, a tenant must either: a) pay more than 50% of their income towards rent, b) live in substandard housing, or c) have been involuntarily displaced or homeless for reasons other than eviction with cause. Approximately 9000 persons are on the waiting list for Section 8 at this setting alone, and if they meet all the above criteria, they will be moved to the top of the waiting list by a computerized point system⁹ in roughly one to two years. Applicants on the wait list could call on Thursday afternoon between one and

tenants within a locally determined ceiling on rents, called the fair market rent, tenants on Section 8 typically pay 30% of their income towards rent, and may take their voucher to any municipality with Section 8 landlords. Despite limitations such as, “Use value goals like racial integration, energy conservation, or environmental amenity cannot be shaped by a national housing policy in which government passively writes checks to be spent in the marketplace” (Logan and Molotch, 1987:170), the program has endured throughout the past thirty years, and shows no signs of being discontinued.

⁶ The caseworkers are: Maria, a Latina; Ed, an African-American male; and Sidney, an Anglo male. Four other officers staff the office full-time⁶ besides the specialists: the manager, Joe, an Anglo male; the supervisor, Sara, an African-American woman; the waiting list coordinator, Carol, an African-American woman; and an administrative assistant, Tom, an Anglo male.

⁷ At the time of the fieldwork, the limits on household income (based on 50% of the annually adjusted median family income for the regional area as determined by HUD) were as follows: for 1 person, \$16,900.00; 2 persons, \$19,300.00; 3 persons, \$21,750.00; 4 persons, \$24,150.00; 5 persons \$26,100.00; 6 persons, \$28,000.00.

⁸ The Quadel Coursebook notes: “Family is not completely defined by HUD. PHA's must define in their Administrative Plan.” The coursebook then provides a “commonly used definition” as: “Two or more persons sharing residency whose income and resources are available to meet the family's needs and who are related by blood, marriage, or operation of law (or who give evidence of a stable relationship which has existed over a period of time).” Thus, when this definition is applied, two friends who are not kin may be considered as “family.” See Gubrium and Holstein (1993) for how the meaning of “family” is determined within an organizational context.

⁹ According to the point system by which applicants are prioritized for eligibility interviews in this office, applicants

four to find their position. Many who appeared from their application to not live in substandard or overcrowded housing, or live in the city, called weekly only to find that their position had not improved, or had dropped as others with preferences moved ahead of them.

Most importantly, an applicant's eligibility for each of the above criteria must be "verified." For example, the identity of each person in the house must be documented with an ID and a social security card; one's work must be verified with an employee verification form; one's income must be verified with at least five paycheck stubs; one's residence must be verified with a lease and utility bills; one's rent must be verified with check stubs; one's assets must be verified with a divestiture of assets form; government support, bank statements, and school attendance must be verified with the proper forms, and if one is unable to provide such verification one must sign a legally certified statement to that effect.

Despite the fact that all applicants were convinced of their need for a housing subsidy, few managed to convince Section 8 workers. In fact, in a batch of fifty scheduled interviews, typically only two would be eligible. Some had moved and not notified the office, some did not attend their appointment for unknown reasons, and many could not prove that they qualified for a federal preference. Workers' typical stance towards applicants is one of skepticism and suspicion, especially if an applicant appears not to be destitute (see Garot, 2005). Eligibility workers are adept at finding warranted grounds for doubting verification, asking "dubious" applicants to return repeatedly with further verification, until the applicant tires of the process or the worker accepts their claims.

As a case study of a single office, this paper offers an in-depth investigation of the workers' practices, afforded by the rapport that develops with members when an extended amount of time is spent at one setting (Ragin and Becker, 1992; Feagin, Orum and Sjoberg, 1991; Harper, 1992). While each Section 8 office differs in terms of such factors as the geography of the area, the ethnic

with a federal preference receive 100 points, residents receive 50 points, and veterans receive 10 points. The point

mix of applicants and tenants, and the “working culture” of the office, each office is faced with similar federally mandated tasks to which they are held accountable by HUD inspectors. Thus, the details of workers’ practices at one office may be highly similar to, or provide a useful contrast to descriptions of such practices in other offices, a point future research may well address.

Prior to this study, I had initially worked in the office as a temporary administrative assistant for two weeks, before Tom was hired. In the initial stages of the fieldwork, I worked as a “floater,” reacquainting myself with the work and personalities of each officer and assisting in any way possible. After about two months, I proposed that I become part of what I called the “Intake Interview Team.” Thereafter, I worked closely with Sara and Carol to assist with the pre-interview and post-interview paperwork, in exchange for being allowed to take field notes during the intake interviews, and to tape record in-depth interviews with the officers after their interviews were completed. I was not allowed to tape record or videotape intake interviews due to federal privacy provisions. After completing over 100 hours of observations over the course of six months, I coded and analyzed my data according to the traditions of grounded theory (see Charmaz, 2006) and analytic induction (see Katz, 1988). Emerson, Fretz and Shaw (1995) describe this process with elaborate sensitivity.

The Reflexive Use of Rules as Constituent Features of the Setting

Reflexivity refers to the ordinary ways in which members account for their ongoing construction of their social space; members often use rules as an important feature of such work (Lynch, 1992, Sidnell, 2003). The sections below will explore three ways Section 8 workers reflexively use rules in determining eligibility: through judging whether an applicant is in desperate need, determining an applicant’s income, and asking questions based on applicant’s presumed racial and ethnic background.

Desperate Need

As discussed above, “desperate need” is the term used in Section 8 for those applicants who qualify for a federal preference, as opposed to those who are simply eligible. Below, Sara clarifies this for me in an in-depth interview after an intake interview in which a Latino family was determined ineligible for a federal preference.

RG--into tape recorder: In the last case, a Latino man, his wife and their baby weren't eligible because he was making too much money.

S: Well, the thing about him Bob, he is eligible for the program. Husband and wife, two children. And their yearly income is about \$19,500. They're living in a two bedroom unit and the rent is \$553 a month. Based on his income that's affordable. He's paying less than 50% of his income towards rent and utilities, OK? He's income eligible for Section 8 rental assistance, but he's not in desperate need. Right now, we are assisting families that are in desperate need, with this recession.

While this explanation follows the “official” version of “desperate need,” workers also have their own working notions which are more personalized and ephemeral. For eligibility workers, meeting face to face with an applicant for the first time, determining eligibility consists of more than merely checking boxes for residency, income, family or elderly or disabled, and a federal preference. Rather, a worker must trust an applicant to know that papers are not doctored, or that the applicant is part of what workers consider a scam. For instance, in one witnessed case, a son who owned an apartment complex divested his mother of assets, and attempted to procure a Section 8 subsidy for her to rent a unit in his complex. “Desperate need” thus became workers’ shorthand for those they could trust, for the destitute with few, if any other options. Workers expressed pride at finding a place for such applicants. As the manager of the office told me, “You know, when we first put people on the program, it's like building bridges, you get a lot of gratitude from that.”

At times workers use terms like “vibes” and “gestalt” to gloss this process of determining desperate need. Below, Carol uses the same term Sara described above as a regulation in terms of a “technique,” as if the paperwork and regulations (“all this stuff”) by which “desperate need” is operationalized are obstacles to seeing it.

“What’s most important is to understand or develop the technique to realize this person really is someone who’s in desperate need, not someone who’s just trying to scam the program. You start getting more in tune with the people that you’re interviewing rather than all this stuff.”

Like a hunter searching for a rabbit in the foliage (Merleau-Ponty, 1962:57), Carol was vague and laconic in articulating just how she got “in tune” with an applicant. As a novice interviewer, she was grappling with finding a warrant for trusting certain applicants, but she did not trust her sympathy for applicants to provide this. Instead, she looked for cues that would indicate an applicant’s “desperate need.” In the excerpt below, she corrects my tentative assessment of an applicant.

“He mentioned he was a widower a couple of times,” I notice. “I could almost feel that he was in grief.”

“We try not to feel. Instead, I look for vibes.”

A few moments later she offered more cues to what she could mean by “vibes” when I made a comparison of two previous applicants.

“These two men seemed a lot alike,” I say.

“Not to me. I think the first one needed it a lot more. The second man didn’t seem as desperate to me. I just got different vibes.”

Other, more experienced workers are more forthcoming in their ways of determining “desperate need.” Below, Ed refers to a number of appearance attributes that might reveal an applicant’s hidden source of income. As he does so, he reflexively relates his practices to regulations. Indeed, he is highly conscious of such a relationship, for he is called to account for it by his supervisors, as we will see.

“But if the person’s sitting in front of you, the longer you do the job, you have a sense of whether or not a person is living off \$500 a month or whether they are living off of much more than that. And none of this is in the regulations but, grooming, skin tone, the clearness of the eyes, the intelligence. A lot of that will tell you the standard of living of the individual in front of you. You can bring me two women in here, both on AFDC¹⁰, both with two children, and I can tell you the one that’s living strictly off of their AFDC grant, and the one that at least has a boyfriend that’s taking her out to dinner once a week, or giving her some money to get her hair done or get her nails fixed.”

¹⁰ At the time of this study, AFDC referred to Aid to Families with Dependent Children, which provided assistance to families in need. It has been discontinued and replaced with Welfare to Work programs.

According to federal regulations, Section 8 tenants must meet certain income eligibility guidelines, and provide documentation to verify that income level. A Section 8 worker who makes decisions based merely on such criteria, however, would be considered a dope, or at least a dupe of savvy applicants (see Garfinkel, 1984:67-68). Knowing when to become suspicious, and how to act based on suspicion, are central skills by which many social control and human service workers judge the competence of their fellow workers. To not be suspicious when an experienced worker would find suspicion warranted is to be either inexperienced or incompetent. Such a worker wastes precious resources and is an embarrassment to colleagues, as they allow criminal activity to escape attention, or allow wealthy applicants to receive government subsidies. Regulations, however, are hopelessly inadequate for specifying the details of such work (Garot, 2005). For example, police officers suspect persons who appear to deviate from the “normal ecology” of an area (Bittner, 1965; Rubinstein, 1973; Sacks, 1972). To learn a “normal ecology” and what might deviate from it requires years of watching an area and developing relationships with members. Similarly, housing eligibility officers spend years learning how to recognize “desperate need,” and how to question applicants who appear not to be destitute. Ed told how he articulated such practices in an intake interview.

“I’m sitting here with a woman sitting in front of me with a freshly cut hairstyle, manicured nails, long nails, where we’re talking about the overlays, porcelain nails. And she’s saying that she’s homeless and she has a letter. Now based on regulations, I should basically say, ‘OK you have a letter verifying you’re homeless, you’re on the program.’ Well, this particular case sort of hit an emotion, and I said, ‘I don’t see how you’re living in a shelter and you haven’t broken your nails.’”

When Section 8 workers suspect that an applicant is hiding wealth or income that would make them ineligible for a housing subsidy, they often contrast the behavior of the applicant to another standard, such as their own behavior, using a “contrast structure” (Smith, 1978:38-47). According to Smith, such structures are comprised of a description of behavior preceded by a statement for

how to hear that behavior as anomalous.¹¹ In the above excerpt, the worker's noticing of the applicant's nails provide the basis to posit such a structure, but as Ed alluded in the prior excerpt, it was merely one of many possible glosses that could lead a worker to lose trust in an applicant's claims. Ed was especially wary of how such practices, despite comprising criteria for competence among housing officers, might be penalized. He continued,

“Well, she walked out of my office, went back to the person that wrote the letter, and within an hour, my manager at that time called me and said, ‘What is this, you told a woman that she wasn't qualified because her nails were manicured?’ (to the interviewer:) Okay? So, in that instance, you're not allowed to use your common-sense. So your five senses, you know you can see, you think, and sometimes when you're not allowed to use those senses, then that's when fraud can take place. You say, ‘I don't care.’”

Ed's narrative, full of the drama of the unfairly persecuted government worker, shows how housing eligibility officers use rules as constituent features of their setting. If anything, Ed is guilty of what Garfinkel called ad-hocing, invoking criteria which are not explicitly part of the regulations in order to follow his best interpretation of the rules' intent: to provide subsidies to those who are most deserving. Garfinkel (1984:20) used the term to describe the work of graduate students coding hospital files, who inevitably relied upon a vast realm of unspoken background knowledge concerning the maintenance of the files and the workings of the hospital “that their coding procedures were intended to produce descriptions of.” To treat the presence of such *ad hocing* practices “as grounds for complaint about the incompleteness of instructions” is like suggesting “that if the walls of a building were only gotten out of the way one could see better what was keeping the roof up” (Garfinkel 1984:22). For Ed, his supervisor's complaint is akin to the roof falling in, and he is left wondering how he is to go about his work in a locally competent fashion.¹²

¹¹ As another example, consider the manager's statement about a problematic tenant on the Section 8 program: “We've done everything we can yet she still complains. She says she's going to Oregon for a few weeks and hopes we won't have any problem with that. I say, ‘You know what that tells me? That sends up a big red flag for me, that you can afford to leave for a few weeks for Oregon. I can't afford to go to Oregon. I gotta pay my rent, I got a family.’ It's just amazing” (cf. Miller 1991).

¹² Compare Graber (2003:174-177), who offers “structural solutions” and “cross-level coordination” in order to “foster policy coherence.” Hence, more rules and stipulations are proposed as the remedy to ad-hocing, leading to potential infinite regress, as ad-hocing is inevitably necessitated for following the new stipulations, etc.

Managers of social service programs, facing less oversight, may not need to sort through such rubble to same degree as their workers. In one case, Joe, the manager of the Uptown office, interviewed a woman referred by Carol, who doubted the applicant's claim that she was homeless. An African-American in her twenties, the applicant arrived at the interview with her baby in a stroller, and told how she lived with an older man who died two or three years before. She then met another man, but they broke up, leaving her on her own again. She said she was living with his mother, but she didn't know how much longer she could stay. She spoke of spending nights in shelters, which are cold because they don't close the doors. She mentioned big cockroaches on the floor of the shelter and how she was surrounded by alcoholics and drug addicts. As she told her story and cried, Joe looked down and flipped through her papers. He left the room to make copies, then returned to tell her she was eligible. She cried harder, smiling and reaching out to squeeze his hand sitting on his desk. Afterwards, I asked him what convinced him she was homeless.

"She really gave up her ego. It was almost like a therapy session¹³--she was bearing her soul. She told me that she slept on the floor of a shelter. She told me that her boyfriend, though he's nice to her, has another woman. He doesn't really need her. And her grandparents. She was like very honest. She was not, there were no airs about that lady at all. She thought she was getting ripped off by the amount of rent she was paying. You know. It was a whole, it was a gestalt. It wasn't any one--I just, it was a gestalt."

In his description of this "gestalt," he used the term Carol had disavowed to describe an apparently similar phenomena.

The bottom line is, we've made this decision to give her a one [bedroom apartment], which, gut feeling is the right decision, gut feeling, you know. She might be laughing at me now, I don't know. But gut feeling it's the right decision. The person that's number one on the list is gonna wait a month longer sleeping on street. Sounds hard, but that's life.

The manager's "discretion" might not pose as much of a dilemma for him as for other workers, since he has no one directly overseeing his work who could call him to account for those practices (see Lipsky, 1980:18-23; Handler, 1979:4), although Carol passes his office with a wide-eyed look of disapproval, but says nothing. Unlike Ed's applicant, Joe's does not have a letter from

¹³ Before working for HUD, Joe worked as a therapist in a psychiatric clinic.

a shelter to verify she is homeless, and her current living situation with her ex-boyfriend's mother would not qualify her for a preference. Ed might be described as a Type II worker for his concern with detecting fraud, while Joe could be characterized as a Type I worker, focused on helping needy clients (see Scheff, 1966). Yet the point here is that both use rules for eligibility as constituent features of their setting. Ed is held accountable for such rule use by his supervisor, while Joe is held accountable through Carol's stare, and our interview. Ethnomethodologically, what is interesting is not whether workers are following "formal" or "informal" rules, if their discretion should be remedied, or if their actions may be constitutive of various "types" or workers, but how the actors in these scenes—Ed, his supervisor, Joe, Carol, and myself, collaboratively construct this setting through our reflexive accounts of the rules' import. In short, while "desperate need" had a specific, legal meaning in the Section 8 Program, workers accounted for that meaning in the course of their worksite practices as a personal gloss of their impressions of an applicant.

Working: "Something's wrong here"

As many other studies have shown (Handler and Hollingsworth, 1971), officers often judge applicants on the basis of whether they are "working." Like the officers Miller (1985, 1991) observed in a Work Incentive Program, Section 8 officers' desire to assist clients rests on this vernacular indicator of moral worth. This preference was often expressed by officers spending extra time to see if a working applicant who was determined to be unqualified could be found to qualify, and feeling happy when they brought applicants onto the program who seemed morally worthy of it. Sara spoke of one such couple.

"I'm so happy I got them on. The mom is sick, the son goes to school full time and works. The mom is on AFDC, and both of them pay the rent, (emphasized:) like a family's supposed to. (to me:) You writing all this down?" (I smile and put my notepad away.)

As Lipsky (1980:109) states, "one of the most well-grounded generalizations that can be made concerning client processing," is that "street-level bureaucrats respond to general orientations

towards clients' worthiness or unworthiness that permeate society and to whose proliferation they regularly contribute." In the example below, Sara tells of how she assisted Carol, who had come to Sara for assistance in handling an applicant who was crying and refused to leave the office after Carol had determined that she was unqualified.

"She was a single parent working with five children and she wasn't qualified. This was her second interview with Carol. Carol said the woman was in the office crying and she wouldn't stop and she wasn't leaving! I says, 'Wait a minute. Five kids, single parent working? How much money is she making and she's not qualified?' I just said, 'Let's look at the papers.' So we looked at the papers and she'd only brought in about three pay stubs. I said 'OK, well there you go.' You have her bring in as many paychecks as she can so that we can see what her actual income is over the course of a period of time more than just a month and a half.' It wasn't enough proof of her income to determine that she had a preference or not. She went home, she brought all the paystubs, like for maybe a year. What the supervisor said that she was earning was about \$4,000 off, because she took time off for her kids when she didn't get paid."

Although applicants are routinely asked to only bring in three paystubs, this applicant's "situation" elicited a desire from the officer to do more than she would ordinarily do to determine eligibility, by asking the applicant to bring in all her paystubs over an entire year. When the worker voluntarily took the time to lengthen a procedure which usually only took a few moments of an interview, she found that the time the applicant missed from work decreased her annual income, making her qualified for Section 8. Thus, what counts as "enough proof" may sometime depend on more than what the regulations stipulate.

The fact that the applicant cried in the above instance may have prompted the novice to seek assistance (see Garot, 2004), but it did not help her get on the program. The important factor was that the applicant was working, as revealed in one of Sara's later interviews observed by the researcher, when a woman receiving welfare support began to cry. Afterwards, when Sara was asked how she copes with crying, she responded with the following:

"To be honest with you Bob, her situation doesn't affect me as bad as someone who you can see is obviously struggling and they're working everyday. That affects me more than someone who is receiving government assistance through welfare, and then they're asking for housing and foodstamps and--anyone who's on AFDC who does not have very young children, and they are single, able-bodied people, I don't really have that much sympathy for

them. I just don't. But if they are working everyday, and they're not making ends meet, those people I feel bad. Those people I have to sit back and go, 'Now wait a minute; something's wrong here.'"

In this excerpt, Joni reveals an impoverished sociological imagination (see Mills, 1959), overlooking structural factors which may lead to unemployment, and instead, blaming the victim. As in Ed's practices for determining desperate need, such ad-hocing is not a regulatory provision, yet whether applicants worked or not influenced the amount of time she devoted to reviewing cases of applicants who were determined to be unqualified. Applicants lacking such characteristics had used their "sympathy credits" (Clark, 1987), even if they cried in front of a worker.

Below, two experienced workers, Sara and Maria, further illustrate the process of finding a way to qualify working applicants in a tape recorded conversation. This intake interview concerns a Latino man, his wife, and their child living in a garage which the husband had occupied before he was married. They are unqualified for a federal preference since they do not pay more than 50% of their income towards their rent (the husband makes over \$9 an hour working full time and their rent is \$100 a month). Sara was scheduled to conduct the interview, but since the applicants do not speak English, she requested assistance from Maria, a Spanish speaking worker.

Sara works quickly on the adding machine, then tells Maria: You'll have to explain to them they don't have a preference because their rent's just \$100 a month.

Maria: Even considering the condition of the unit?

Sara: We can't use substandard.

Maria: There's gotta be a way.

Sara: We could call the Rent Board to see if there's no bathroom or kitchen.

In this case, Maria's comments show she's taking an active interest in finding a way to assist these applicants. Besides paying 50% of one's income towards rent, the two other ways to qualify for a federal preference are to live in substandard housing or to have been involuntarily displaced for reasons other than eviction. As both of these situations are extremely rare, neither are routinely asked by interviewers. However, in this situation, in which a young working class family is living in a garage, the workers search for some other way they may be qualified. Overcrowded conditions had qualified as the primary criteria for substandard housing, but that had been phased out as Sara

notes in response to Maria's question. However, after further prodding by Maria, Sara recalls that units without a bathroom or a kitchen may also qualify as substandard housing. Once this is verified by a call to the Rent Board, the family is determined to qualify for Section 8. Such a case reveals workers' thorough, quick knowledge of how to invoke the rules they find necessary for accomplishing the determination of eligibility in a locally competent manner.¹⁴

Membership Categorization Devices

Ed: ...In this job, you meet people from South America, from Europe, from Asia, from all over the world, and they bring their customs and cultures with them. Their approach to this program is based on their opinion towards government.

RG: I'm interested in what you were just saying there. If you want to elaborate a little bit more on like the types of people that you see coming in, and how you learn to expect certain things from certain groups.

Ed: Groups of people?

RG: Yeah.

Ed: How it comes out will be based on your moral conscience.

RG: Mm hmm.

Ed: 'Cause here's an example of what I meant when I said you can be burned. And a red flag is going up inside of me now as a person doing this job. Because what I'm about to say are the unspeakables. You don't specify ethnic groups or cultures. But in this job you see patterns.

While applicants' characteristics which deviate from workers' expectations of desperate need trigger their suspicions, and working applicants may trigger their sympathy, workers become suspicious of applicants themselves based on expectations raised by the applicants' presumed racial/ethnic status.¹⁵ In the United States, a long history of constitutional law, beginning with the notorious 3/5ths compromise, has justified decision-making based on race, while the 14th amendment, and various Supreme Court decisions, most notably *Brown vs Board of Education*, have outlawed them (see Higginbotham, 2001). Section 8 workers are keenly aware of this prohibition, and it is highlighted prominently in their training manuals and briefings concerning federal regulations. Nonetheless, as Ed notes above, "you see patterns," and workers, like demographers and sociologists, find them hard to ignore. In fact, despite their reflexive knowledge

¹⁴ The speed and fluency by which workers embody such ad-hoc procedures is reminiscent of Sudnow's exposition of the "hands knowing ways" of playing jazz piano (Sudnow, 1978; see Polanyi, 1966).

of the regulations, they reify such patterns in their workgroup discussions, and locally define competent work as warranting suspicion based on such “patterns.”

Section 8 workers’ suspicions rest on typified notions of applicants, which Sacks discusses as membership categorization devices, or MCDs. According to Sacks (1974:218-219) an MCD is “any collection of membership categories, containing at least a category, which may be applied to some population containing at least a member, so as to provide, by the use of some rules of application, for the pairing of at least a population member and a categorization device member.” These rules include the economy rule and the consistency rule. According to the former, “a single category from any membership categorization device can be referentially adequate,” while the latter states, “if some population of persons is being categorized, and if a category from some device’s collection has been used to categorize a first member of the population, then that category or other categories of the same collection may be used to categorize further members of the population.” By using a certain category, the speaker thus invokes a realm of common-sense knowledge of activities routinely done by “people like that.”

In the Section 8 program, as in any street-level bureaucracy (Lipsky, 1980:108-116), workers use a variety of such devices in perceiving applicants’ claims and determining applicants’ eligibility. Such uses are of interest in this study not for how they incriminate the workers, but for how they reveal the workers’ practical responses to the contingencies of their work. Such categorical understandings are learned through work experience, and, as Emerson (1990:39) states, “are organizationally-sanctioned devices for assessing ‘what is going on,’ and not simply or primarily sources of bias,”¹⁶ even though workers spoke of them in such terms.

¹⁵In this analysis I conflate race with ethnicity, as Section 8 workers did not distinguish between the two. Instead, I will refer to MCD’s, discussed below, as a more apt term.

¹⁶ Even if such patterns of action are to be treated in terms of “bias” under a legal criteria of adequacy, new worksite practices may emerge that are just as culpable. Lipsky (1980:108-9) notes the problems that occur when street-level bureaucrats over-react to the potential for biased behavior. For example, African-American school children in San Francisco were told they were doing well although they were in fact not learning at an acceptable rate.

On one hand, workers are mindful and wary of their own personal “biases” which could predispose them to favor certain groups of people over others. On the other hand, they notice behavioral patterns among applicants of various racial or ethnic groups, and remark among themselves and to me about the predictability of these patterns which could influence their responses to applicants. In pointing out their own biases, Carol and Sara show how they share many of their working notions about ethnic groups. Below, the first officer below is Carol, the second Sara.

“People have their MO’s,¹⁷ which you start to recognize after a while. I hate to be prejudiced, but Ed has said this too, and it’s just something you start to see. Hispanics almost never have a lease. They live with other people who help them out. For some reason, they just hardly ever have one. Blacks (said hesitantly, and she laughs), try to pull the game on you. Russians, middle easterners are very persistent. They’ll come back everyday to make themselves qualify. After you do this for a while you just start to see it.”

...

Sara: I mean I’m not prejudiced, Bob. Carol’s not prejudiced. I mean. But you see, it’s the Mexican families or Hispanic families that come in, normally, do not have a lease or rental agreement.

RG: That’s what Carol said.

Sara: It’s true. Middle Eastern families always have a scam, always in the best apartment, usually have money in the bank, it’s usually like with them, it’s always questionable. And you’re on the alert. You don’t want to but you just do. It’s like OK, what are you guys gonna try to do today? Um. Usually black families, normally they have a history of generational assistance, you know. It’s usually the same situation you see day in, day out. And it’s like, I don’t know. Kind of--

RG: That kind of keys you in on what sort of things to look for-?

Sara: Yeah. Mm hm.

In both of these accounts, the workers orient to the fact that their words could appear prejudiced.

Yet the workers were not describing themselves, they were describing their work. As Lipsky (1980:115) states, “they are particularly inclined to believe that experience provides the basis for knowledge in assessing the client world.”

Such locally recognized “knowledge” serves as a starting place for the review of a case, but is subject to revision in light of what emerges from the intake interview. Below, Carol articulates such knowledge (and the awareness that it could be perceived negatively) while she previews the

¹⁷ This stands for *modus operandi*, and is commonly used in U.S. police and detective TV programs.

files of apparently African-American, Latino, and Persian applicants before their interviews. Here is Sacks' economy rule in evidence, as mere applicants' names are "referentially adequate" for inferring a realm of other features.

- Carol pulls the file for her next interview. She tells me she's on the 2 bedroom waiting list, and she's a 65 year-old African-American. She's on the applications with her 47 year old son. "Get a life," Carol says, and then she follows with, "I shouldn't say that. He's probably helping her."
- Carol tells me about her next interview with an elderly Latino woman who is on the application with her 16 year old daughter. They claim a preference under 50% and local residency. She's on social security. "Now watch, she won't have a lease," Carol says.
- Carol looks at her schedule. Let's see, she says. She points her finger down the list. I've got 4 in the morning. "Op, that one'll be trouble," she says, pointing at a Persian name. "No, I don't wanna do that," she says, laughing, "but it's hard to help it."

Note that in the first and third excerpts above in which Carol's attitude could be seen as discriminating against the applicants, she checks herself, reflexively orienting to the possibility that such remarks may violate federal regulations. In the second case, Carol's local knowledge that the family is unlikely to have a lease may aid the family, for it may prepare her to pursue other means of verifying the family's residence and rent paid.

Workers also reveal such predispositions in the course of intake interviews. In the case below, Carol discusses her attitudes towards her current interviewee with the researcher during a "time out" from the interview in which she copies papers from the applicant's file. Although this Persian applicant has met all the criteria for eligibility, Carol still had reservations about allowing him onto the program.

"Was he qualified?" I ask.

"It's pretty obvious that he's qualified, but there's always that, you know how it is, that gut feeling of mmm I don't know. It's like, I don't know if I should say this on tape but, everybody has their M.O. Their M.O. is that they've got hidden assets. I don't exactly believe that he has, no money, that he doesn't have any money at all, you know?"

If this excerpt is interpreted by a legal criteria of adequacy, it may appear as a blatant example of racism. Carol reflexively orients to this possible interpretation with the statement, "I don't know if I should say this on tape." In order to understand how she could make such a statement, it is important to recognize that the interview occurred in a context in which she had recently

interviewed two Persian applicants whom she initially believed were qualified, but were later determined to be unqualified.¹⁸ As stated in Sacks' consistency rule, Carol is wary when she is faced with what she interprets as a similar circumstance. While her suspicion of this applicant will not prevent him from receiving a Section 8 subsidy if he meets all the legal criteria for eligibility, she will review his case closer than that of a non-Persian applicant, and this review will be based on locally recognized warrantable grounds. As Lipsky (1980:116) states, "Clients and concerned citizens see biased behavior. Street-level bureaucrats see attitudes forged from experience reinforced in their validity. Clients see unfairness; street-level bureaucrats see rational responses to bureaucratic necessities."

Conclusion

This paper has probed three ways in which Section 8 housing workers' actions in eligibility interviews, which could be culpable from a policy standpoint, involve the sort of reflexive invocations of rules which are integral to rule use in any setting. As comparisons, we have alluded to Garfinkel's coders' reliance on unspoken background knowledge "that their coding procedures were intended to produce descriptions of," and how Guyanese younger brothers might address their older brother's wife without violating the prohibition against doing so (Sidnell, 2003). Yet is determining eligibility for a basic human need like housing, in a country rife with dire housing problems like homelessness (Momeni, 1989), and segregation (Massey and Denton, 1996), akin to coding hospital files and addressing one's in-laws? If one reads the long history of studies of discretion in welfare provisions, one must conclude that it is. Determining eligibility for housing for the poor is certainly more vital to basic survival than the prior two examples, but it remains an instance of rule following, subject to all the dilemmas, difficulties and contingencies that such tasks

¹⁸ One applicant owned two businesses and had over \$10,000 invested in bonds, and another applicant rented a room in one of his son's two large houses in exclusive housing areas. At the same time, Carol was also aware that many needy Persian applicants had deservedly received Section 8 subsidies at this office.

entail. This is not to say that such actions should be justified, or should not be subject to greater oversight.

Although workers' must use regulations as a resource, not a guide for decision-making, and the skill of such ad-hocing is indicative of locally-recognized competence (Cf. Sudnow, 1978:29-33), workers are often held to a criteria of adequacy for which such competence is strongly felt in need of remedy. Consider the comments below of a prominent legal aid attorney, addressing a conference on the depletion of affordable housing stock.

"...I'll tell you a story. I had this young, idealistic attorney in my office who still felt we lived in a just, rule-governed society." Some members of the audience chuckle. "He took a case with a person on Section 8, and he told the Section 8 representative, 'but the regulations says--' and she said, 'Oh, we don't follow those.'" People in the audience laugh aloud for about thirty seconds.

Afterwards, I ask the lawyer about his comments. I tell him I thought the working culture has a lot to do with how they run the office. "Are those sorts of problems like you mentioned common with people on Section 8?"

"Oh, all the time," he says. "It's endemic to their program. This shit you said about working culture is everywhere, and it just infuriates me."

Such a conflict between legal aid attorneys and human service workers is likely to never be resolved, for the legal criteria by which the lawyers judge the program are inherently insufficient to stipulate the work that Section 8 officers find necessary to function competently. Rules can sensitize workers to past transgressions, and potential oversight and sanction, but they cannot stop behavior. They cannot stop workers from finding patterns in their work, and acting on the basis of those recognitions. With limited funds to oversee housing and welfare distribution, eligibility workers will always be independent, entitled to ask questions that deviate from scripts, guided by their own perceptions, suspicions, and even prejudices.¹⁹

Should we then throw up our hands and allow these workers free reign? No, for rules are as much resources for policy analysts, politicians, the media and the public for judging eligibility workers. We will continue to struggle over the construction, implementation and revision of rules

¹⁹ For excellent case studies of the structural factors by which an agency might resist regulation, see (Ekland-Olsen and Martin, 1988); for an example of how an agency might capitulate to regulation, see (Gilboy, 1992).

as integral tools for the justification of interactional power. Rules are not dictates, but resources. To find how such resources are invoked, justified, or ignored, one must go to the worksite where they are actively constituted as accountable features of everyday life.

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